IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 12880 of 2007(G)

PETITIONERS:

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1. S.RAJENDRAN,AGED 51 YEARS,S/O.SREEDHARAN RESIDING AT "SREE SADAN",KATTACHALKUZHI P.O, BALARAMAPURAM,THIRUVANANTHAPURAM.

2. SOBHANA,W/O.RAJENDRAN,RESIDING AT "SREE SADAN",KATTACHALKUZHI P.O BALARAMAPURAM, THIRUVANANTHAPURAM.

BY ADV. SRI.GEORGE ABRAHAM

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY SPECIAL SECRETARY,LOCAL ADMINISTRATION & SOCIAL WELFARE DEPARTMENT,THIRUVANANTHAPURAM.

2. SECRETARY,CORPORATION OF TRIVANDRUM, THIRUVANANTHAPURAM.

3. CHIEF TOWN PLANNER,CORPORATION OF TRIVANDRUM,TOWN PLANNING OFFICE,KOTTARATHIL BUILDING,PALAYAM,THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI. MOHAMMED ANZAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.12880 of 2007

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Dated this the 1st day of June, 2007

JUDGMENT

Case of the petitioners in brief in as follows:

Petitioners purchased five cents of land. Petitioners obtained Ext.P3 permission for constructing a building and they started construction. Thereafter they were served with Ext.P4 stating that as per the DTP Scheme it is reserved for construction of staff quarters. Ext.P5 is the notification dated 3.11.1976, nearly 31 years ago. Petitioners challenge Ext.P4. They also seek a direction to the respondents to permit them to continue with the construction of the residential building as per Ext.P3 permit. They relied on Ext.P6 judgment. In Ext.P6 judgment a learned Single Judge of this court relied on the decision of this court in **Padmini v. State of Kerala** (1999(3) K.L.T. 465).

2. I heard learned counsel for the petitioners, the learned Government Pleader and the learned counsel appearing on behalf of the Corporation. Learned counsel appearing for the respondents are not in

a position to contend that the case of the petitioners is not covered by Ext.P6 judgment. In such circumstances petitioners are also entitled to the benefit of Ext.P6 judgment.

Accordingly Ext.P4 is quashed on condition that the petitioners will give an undertaking in the form of an affidavit stating that if a notification under Section 4(1) of the Land Acquisition Act is promulgated within one year from today, the petitioners will surrender the property including the building constructed without claiming any compensation for the building. It is further made clear that even thereafter if the Corporation or the Government wants to acquire the property for any genuine public purpose, this judgment will not stand in the way of their doing so and in which circumstance, the respondents will give adequate compensation to the petitioners.

The writ petition is disposed of as above.

(K.M. JOSEPH, JUDGE)

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